

Mr. Danny Espino, Vice Chair

Co-Sponsors: Ms. Maria Teresa Rojas, Chair
Mr. Roberto Alonso } REVISED AT DAIS BY BOARD ACTION
Dr. Dorothy Bendross-Mindingall
Ms. Mary Blanco
Ms. Monica Colucci
Dr. Steve Gallon III
Ms. Luisa Santos

SUBJECT: SCHOOL CONSTRUCTION TASK FORCE

COMMITTEE: FACILITIES & CONSTRUCTION

LINK TO STRATEGIC PLAN: EFFECTIVE & SUSTAINABLE OPERATIONAL PRACTICES

Miami-Dade County Public Schools (MDCPS) is committed to providing safe and modern learning environments for all students. Over the years, M-DCPS has undertaken numerous school construction projects to meet the growing needs of our student population. These projects have included the construction of new schools, the renovation of existing facilities, and the installation of modern technology and equipment.

All MDCPS construction projects fall under the oversight of the Office of Capital Improvement, which is committed to building the future in a safe, encompassing, and responsible manner. This office manages the design, pre-construction, and construction of capital projects of all MDCPS facilities.

Multiple concerns have been raised by the Builders Association of South Florida (BASF) and The Associated General Contractors (AGC) regarding issues related to non-compliance with the Florida Prompt Pay Act and construction retainage. As it relates to public construction projects, the Florida Prompt Pay Act requires that public jobs be paid within 25 days of invoice approval. Potential failure to meet these deadlines is of great concern, specifically to small construction companies that require prompt payment to be able to purchase needed supplies and pay their employees. Retainage in construction projects refers to the portion of a contract price that is withheld as a form of security against the contractor's performance. The retainage percentage is typically 5% and it is held until the project is completed and accepted by the District. The retainage is then released to the contractor after the final inspection. An informal survey conducted by AGC in 2021 of its members who conduct business with the District, found that 70% of respondents had final retainage payments withheld an average of 19-25 months after substantial completion had been achieved. The same survey found that 70% of respondents claimed that the longest it had taken MDCPS to release final retainage had been 25 months. Florida statutes regulate the withholding of construction retainage to within 30 days for projects under \$10 million and within 30 days or up to 60 days if the project is over \$10 million. The concern voiced by contractors is that the process for the retainage to be released

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needs to be reviewed to allow for expedited access to the final payment once projects are completed.

To increase the efficiency, and effectiveness of the District's school construction process, and work towards government and construction industry best practices, the Board may benefit from the establishment and implementation of a School Construction Task Force. This task force will be responsible for identifying the root causes of inefficiencies in this process and developing solutions for, among other things, improvement to general contract conditions to change directive and change order authorization, payment timelines, construction retainage and project close out practices.

The School Construction Task Force's role is strictly advisory. This task force will not interfere with or contradict Board Policy 6320.03 (BIDS AND AWARD OF CONSTRUCTION CONTRACTS PROCEDURES AND REGULATIONS) or any other pertinent State law or regulation. Instead, the task force will review school construction related inefficiencies regularly and make recommendations to the Board.

The School Construction Task Force shall remain in existence from its inception for no more than 120 days to provide the Board policy recommendations. The Task Force shall sunset upon presenting the Board with its recommendations unless extended by an affirmative vote of the Board. To ensure stakeholder and community involvement, each Board Member will appoint one member and an alternate to the task force from the school construction field, specifically contractors, engineers, or architects that have done business with the District within the last five years.

District participation will be ensured by the Superintendent of Schools appointing two staff members from the Facilities & Construction Committee, one staff member from Financial Services, the Chief Auditor, Inspector General, and General Counsel. These six members of the School Construction Task Force will be ex officio (non-voting) members.

This item seeks to direct the Superintendent of Schools to establish a School Construction Task Force. The task force will work towards achieving the objectives outlined in this item and provide recommendations on its operations, including staff support, meeting frequency, reporting to the Board, and any other suggestions regarding its composition.

This item has been reviewed and approved by the General Counsel's Office as to form and legal sufficiency.

**ACTION PROPOSED BY
MR. DANNY ESPINO:**

That the School Board of Miami-Dade County, Florida, authorize the Superintendent of Schools to establish a School Construction Task Force as follows:

1. Make recommendations as to the proposed task force operations inclusive of but not limited to, staff support, number of meetings, issuance of reports to the Board, and any further recommendations by the August 30, 2023, Facilities & Construction Committee Meeting;
2. To ensure stakeholder and community involvement, each Board Member will appoint one member and an alternate to the task force from the school construction field, specifically contractors, engineers, or architects that have done business with the District within the last five years;
3. District participation will be ensured by the Superintendent of Schools by appointing two staff members from the Facilities & Construction Committee and one staff member from Financial Services, all of whom shall be ex officio (non-voting) members. The Chief Auditor, Inspector General, General Counsel and such other individuals as may be designated by the Superintendent shall be notified to attend and may contribute as warranted by the issues raised by the Task Force; and
4. The School Construction Task Force shall remain in existence from its inception for no more than 120 days to provide the Board policy recommendations. The Task Force shall sunset upon presenting the Board with its recommendations unless extended by an affirmative vote of the Board.